

\*\*E-filed 5-2-11\*\*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

DARIO ALDA, an individual; SHEILA ALDA, an individual,

Plaintiffs,

v.

SBMC MORTGAGE, a California General Partnership; T.S. SERVICE CO., a California Corporation; GMAC MORTGAGE, LLC, a Delaware Limited Liability Company; EX PRO FUNDING MORTGAGE, a Business Entity, form unknown; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., a Delaware Corporation; and DOES 1 through 50, inclusive.

Defendants.

Case Number 11-CV-0678-JF (PSG)

ORDER<sup>1</sup> GRANTING MOTIONS TO DISMISS WITH LEAVE TO AMEND

[Re: Docket Nos. 15 & 19]

Defendants GMAC Mortgage and SBMC Mortgage move to dismiss all claims for relief in Plaintiffs' complaint. Plaintiffs allege violations of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 *et seq.*, and related state law claims. The Court concludes that this motion is appropriate for determination without

<sup>1</sup>

This disposition is not designated for publication in the official reports.

1 oral argument and will vacate the hearing date of May 6, 2011. *See* Civ. L.R. 7-1(b).

2 Under this Court's Civil Local Rules, Plaintiffs' opposition was due at least twenty-one  
3 days before the noticed hearing date of May 6, 2011—here, not later than April 15, 2011. *See* Civ.  
4 L.R. 7-3(a). As of the date of this order, Plaintiffs have not filed opposition papers.

5 Because the instant motion appears well-taken and is unopposed, the motion to dismiss  
6 will be granted with leave to amend. Any amended pleading shall be filed within twenty (20)  
7 days after the date of this order.

8 **ORDER**

9 For good cause shown,

- 10 (1) the motion to dismiss is GRANTED, WITH LEAVE TO AMEND;  
11 (2) any amended pleading shall be filed within twenty (20) days after the date of this  
12 order;  
13 (3) the hearing date of May 6, 2011 is VACATED.

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15 IT IS SO ORDERED

16  
17 DATED: May 2, 2011

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19 JEREMY FOGEL  
20 United States District Judge  
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